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Counsel for Plaintiff

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION**

**BUFFALO FIELD CAMPAIGN**, a  
Montana Non-Profit Corporation,

Plaintiff,

vs.

**UNITED STATES DEPARTMENT OF  
AGRICULTURE, ANIMAL AND  
PLANT HEALTH INSPECTION  
SERVICE**,

Defendant.

Case No. \_\_\_\_\_

**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

Freedom of Information Act

Plaintiff, the Buffalo Field Campaign (“BFC” or “Plaintiff”), alleges as follows:

### **INTRODUCTION**

1. This action is premised upon, and consequent to, violations of the Freedom of Information Act (“FOIA”), 5 U.S.C. §§ 552 *et. seq.* It challenges the unlawful failure of the Defendant, the United States Department of Agriculture, Animal and Plant Health Inspection Service (“APHIS,” “Defendant,” or “Agency”), to abide by the statutory requirements of the FOIA.

2. Defendant is unlawfully withholding public disclosure of information sought by Plaintiff, information to which it is entitled and for which no valid disclosure exemption applies or has been asserted. In particular, Defendant has violated, and remains in violation of, the statutory mandates imposed by FOIA by: (1) failing to provide a final determination resolving Plaintiff’s FOIA Request within the time required by law; (2) failing to provide Plaintiff with an “estimated completion date,” as required by law; (3) failing to timely respond and approve Plaintiff’s fee waiver request; and (4) failing to provide Plaintiff non-exempt responsive records in response to Plaintiff’s FOIA request.

3. Plaintiff seeks declaratory relief establishing that Defendant has violated the FOIA. Plaintiff also seeks injunctive relief directing Defendant to promptly provide Plaintiff with the requested material. Finally, Plaintiff seeks an Order

from the Court directing Defendant to pay Plaintiff's reasonable attorneys' fees and costs incurred in bringing this action.

**JURISDICTION, VENUE, AND BASIS FOR RELIEF**

4. This Court has jurisdiction over this matter pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331 because this action arises under the FOIA and the Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*

5. Venue properly vests in this Court pursuant to 5 U.S.C. § 552(a)(4)(B), which provides venue for FOIA cases in this district. Plaintiff resides and has its principal place of business in the District of Montana.

6. This case is properly brought in the District of Montana, Missoula Division. BFC's habitat coordinator, Darrell Geist, resides in Missoula, Montana. Mr. Geist submitted the FOIA Request at the heart of this dispute on behalf of BFC, and will continue to play a major role obtaining, reviewing, and releasing information obtained from responsive records to shed light on ongoing government action. BFC conducts regular business activity in Missoula, and all year-end financial information is processed in Missoula, as reflected on BFC's annual reports to the State.

7. Declaratory relief is appropriate under 28 U.S.C. § 2201.

8. Injunctive relief is appropriate under 28 U.S.C. § 2202 and 5 U.S.C. § 552(a)(4)(B).

9. Attorneys' fees and costs may be awarded by the Court to a substantially prevailing plaintiff pursuant to 5 U.S.C. § 552(a)(4)(E).

### **PARTIES**

10. Plaintiff Buffalo Field Campaign (“BFC”) is a non-profit public interest organization founded in 1997 to stop the slaughter of Yellowstone’s wild bison, protect the natural habitat of wild free-roaming bison and other native wildlife, and to work with people of all Nations to honor the sacredness of the wild bison. BFC is supported by volunteers and participants around the world who value America’s native wildlife and the ecosystems upon which they depend, and enjoy the natural wonders of our National Parks and Forests. BFC has field offices in West Yellowstone and Gardiner, Montana, where volunteers congregate and conduct daily field patrols to document government activities directed against wild buffalo. As BFC’s habitat coordinator, Mr. Geist regularly conducts business with and for BFC through his Missoula residence.

11. BFC, as an organization and on behalf of its members, is concerned with and actively involved with protecting the last remaining descendants of the native plains bison on this continent, and advocating such bison be allowed to occupy their original range. BFC actively seeks to document and publicize the plight of the bison, to end their slaughter by government agencies, and to secure long-term protection for viable populations of wild bison and year-round habitat. BFC

actively engages the American public to honor cultural heritage by allowing wild bison to exist as an indigenous wildlife species and fulfill their inherent ecological role within their native range, and serve as the genetic wellspring for future, wild, free-ranging bison populations.

12. Defendant APHIS is a division of the U.S. Department of Agriculture, which itself is an agency of the executive branch of the United States government.

APHIS is tasked with protecting the health and welfare of plants and animals.

APHIS' headquarters are located in Riverdale, MD.

13. APHIS is an "agency" as defined by 5 U.S.C. § 552(f)(1) and is therefore subject to the provisions of FOIA.

### **STATEMENT OF OPERATIVE FACTS**

14. The FOIA requires U.S. government agencies to promptly make public records available to any person if that person makes a request which (1) reasonably describes the records sought and (2) complies with any applicable agency rules for making such a request. 5 U.S.C. § 552(a)(3)(A).

15. The FOIA requires an agency to issue a final determination on any such information request within twenty business days from the date of its receipt. 5 U.S.C. § 552(a)(6)(A)(i).

16. The FOIA allows an agency to extend this determination deadline by ten working days when "unusual circumstances" exist and when the agency so notifies

a requester in writing. 5 U.S.C. § 552(a)(6)(B); *see also* 7 C.F.R. § 1.16(a) (U.S. Department of Agriculture regulations implementing “unusual circumstances” provision of FOIA). An agency is entitled to one ten-business day extension. *Id.* The written notice provided to the requester must specify the specific unusual circumstances justifying the extension and the date on which a final determination is expected to be dispatched. *Id.*

17. In some circumstances, the FOIA allows an agency to invoke an extension beyond ten days. To invoke a longer extension, the FOIA requires an agency to provide written notification to the requester that (1) offers the requester an opportunity to limit the scope of the request so that it may be processed within that time limit, or (2) offers the requester an opportunity to arrange with the agency an alternative time frame for processing the request. 5 U.S.C. § 552(a)(6)(B)(ii). The agency must also make available to the requester its FOIA public liaison, who is tasked to resolve any dispute between the requester and the agency. *Id.*

18. U.S. Department of Agriculture regulations state that, even if an “unusual circumstance” justifies a ten-day extension in responding to a FOIA request, the Agency must still “acknowledge the request...in writing within the 20 working day time period” under the statute. 7 C.F.R. § 1.16(a).

19. On October 11, 2017, Mr. Geist, in his capacity as BFC’s habitat coordinator, electronically submitted a FOIA Request (the “FOIA Request”) to

USDA APHIS via its publicly acknowledged FOIA e-mail address,

“FOIA.Officer@APHIS.USDA.gov.” A true and correct copy of the FOIA request is attached here as Attachment 1.

20. The FOIA Request sought the disclosure of records concerning APHIS’ “GonaCon” study, an immunocontraceptive vaccine being administered to wild bison removed under permit from Yellowstone National Park.

21. The FOIA Request also sought a fee waiver for all search and duplication fees associated with responding to the Request. *See* 5 U.S.C. § 552(a)(4)(E)(iii).

22. BFC has been routinely granted fee waivers from APHIS for public record requests under the FOIA.

23. BFC has no commercial value in records responsive to the FOIA Request.

24. The records requested by BFC are likely to contribute significantly to the public understanding of the operations and activities of the government, especially as it pertains to the management of the last wild buffalo population in the Greater Yellowstone area.

25. BFC has a demonstrated track record of digesting and disseminating information obtained under the FOIA concerning Buffalo management to interested parties, including members of BFC. BFC’s staff has the requisite training and experience to understand the records sought and how the content of those records may impact the wild buffalo population. Dissemination of this

information occurs, *inter alia*, through BFC's website, list-serves, and through BFC's field offices. BFC also uses information obtained by public record requests in press conference and releases and in meetings before public bodies, as well as to influence policy decision-making.

26. On October 13, 2017, APHIS employee Shirley Boyd forwarded a letter from FOIA Director Tonya G. Woods acknowledging receipt of BFC's FOIA Request. That letter indicated that the Request was received on October 12, 2017, and that the response date for replying to the FOIA was November 9, 2017. The letter assigned a tracking number to the FOIA Request, 2018-APHIS-00286-F. A true and correct copy of the letter is attached here as Attachment 2.

27. No communications were received by BFC from APHIS on November 9, 2017.

28. On November 27, 2017, BFC sent an e-mail to APHIS employee Shirley Boyd and the APHIS FOIA Officer. That e-mail requested an update on APHIS' processing of the Request, noting that BFC had not received any response on November 9. The e-mail further noted that no requests for an extension under the FOIA's "unusual circumstances" provision had been made by APHIS. A true and correct copy of this e-mail is attached here as Attachment 3.

29. On November 30, 2017, BFC sent another e-mail to the APHIS FOIA officer, as well as Terry Henson, also an APHIS employee. Because APHIS had



already missed its initial target date of November 9, BFC's e-mail requested that APHIS provide an estimated completion date upon which APHIS would fulfill the FOIA request, pursuant to 5 U.S.C. § 552(a)(7)(B)(ii). The e-mail again noted that no extensions had been invoked by APHIS and that the Agency was now outside of the twenty-business day timer for a "final determination" under the FOIA. The e-mail concluded by asking APHIS to provide a determination to the request no later than December 8, 2017. A true and correct copy of this e-mail is attached here as Attachment 4.

30. On December 1, 2017, APHIS wrote back to BFC via an e-mail from Terry Hensen. Ms. Hensen informed BFC that its November 30, 2017 inquiry had been forwarded to a FOIA specialist, Mr. Robbie Perry. The correspondence noted that "Mr. Perry will provide you with the status of the processing of your FOIA request." A true and correct copy of this e-mail is attached here as Attachment 5.

31. On December 18, 2017, BFC sent another e-mail to APHIS, specifically to FOIA Specialist Mr. Robbie Perry. That e-mail again requested that APHIS provide an estimated completion date for the FOIA Request, noted that the determination date had long passed, and pointed out that no unusual circumstances or other exceptions had been invoked by APHIS. BFC Requested that Mr. Perry provide a determination on the FOIA Request "ASAP, and in no event later than Friday, December 22, 2017." A true and correct copy of this e-mail is attached

here as Attachment 6.

32. On January 1, 2018, Mr. Robbie Perry responded to BFC's December 18, 2017 e-mail. The total substance of the message from Mr. Perry was "I am working on a partial release of your FOIA requests this week." The message did not provide a determination, final or otherwise, nor did it provide an estimated completion date for the Request. A true and correct copy of the January 1, 2018 message is attached here as Attachment 7.

33. No further communication was received by BFC from APHIS. No records were produced the week of January 1-5, and no other correspondences were provided.

34. On January 16, 2018, BFC wrote to Mr. Perry again by e-mail. That message stated that, in the 15 days since Mr. Perry's January 1 correspondence, no documents or other communications had been received by BFC. BFC again requested that APHIS provide an estimated completion date and a final determination on the request. A true and correct copy of this e-mail is attached here as Attachment 8.

35. To date, no further correspondences or communication have been received by BFC from APHIS concerning this FOIA Request.

36. To date, no "determination" has been provided to BFC concerning its FOIA Request to APHIS, as that term is used in 5 U.S.C. § 552(a)(6)(A)(ii).

37. APHIS has not informed BFC whether it will comply with the FOIA Request, the reasons for its decisions, or notice of BFC's right to administratively appeal any determination.

38. To date, Defendant has not responded to Plaintiff's request for a fee waiver.

39. BFC has constructively exhausted all administrative remedies required by FOIA. 5 U.S.C. § 552(a)(6)(A), (a)(6)(C).

40. BFC has been required to expend costs and to obtain the services of a law firm, consisting of attorneys and legal assistants, to prosecute this action.

41. To date, APHIS has failed to provide any documents responsive to the FOIA Request.

## **CAUSES OF ACTION**

### **COUNT I**

#### **VIOLATION OF THE FREEDOM OF INFORMATION ACT: DETERMINATION DEADLINE VIOLATION**

42. The allegations made in all preceding paragraphs are realleged and incorporated by reference herein.

43. BFC has a statutory right to have APHIS process its FOIA requests in a manner which complies with the FOIA. Plaintiff's rights in this regard are violated by APHIS' unlawful delay in informing BFC of its final determination as to the FOIA Request beyond the twenty-day statutory deadline. 5 U.S.C. § 552(a)(6)(A)(i).

44. To date, BFC has not received a communication from APHIS about whether the Agency will comply with the FOIA request, its reasons for making that decision, and any right of BFC to administratively appeal that decision.

45. At no time did APHIS invoke the FOIA's "unusual circumstances" exception to the twenty-day statutory deadline for BFC's FOIA Request.

46. Based on the nature of Plaintiff's organizational activities, Plaintiff will continue to employ FOIA's provisions in information requests to APHIS in the foreseeable future. These activities will be adversely affected if APHIS is allowed to continue violating FOIA's response deadlines.

47. Unless enjoined and made subject to a declaration of Plaintiff's legal rights by this Court, Defendant will continue to violate the rights of Plaintiff to receive public records under the FOIA.

48. APHIS' failure to make a final determination on BFC's FOIA Request within the statutory timeframe has prejudiced Plaintiff's ability to timely obtain public records.

## **COUNT II**

### **VIOLATION OF THE FREEDOM OF INFORMATION ACT: FAILURE TO PROVIDE ESTIMATED COMPLETION DATE**

49. The allegations made in all preceding paragraphs are realleged and incorporated by reference herein.

50. BFC has a statutory right to have APHIS process its FOIA requests in a

manner which complies with FOIA. Plaintiff's rights in this regard were violated when APHIS failed to provide an estimated completion date to BFC for its FOIA Request pursuant to 5 U.S.C. § 552(a)(7)(B)(ii).

51. Based on the nature of Plaintiff's organizational activities, Plaintiff will continue to employ FOIA's provisions in information requests to APHIS in the foreseeable future. These activities will be adversely affected if APHIS is allowed to continue to unlawfully withhold an "estimated completion date" from BFC and other FOIA requesters.

52. APHIS' failure to make inform BFC of an estimated completion date on BFC's FOIA Request has prejudiced Plaintiff's ability to timely obtain public records.

53. Unless enjoined and made subject to a declaration of Plaintiff's legal rights by this Court, Defendant will continue to violate the rights of Plaintiff to receive public records under the FOIA.

### **COUNT III**

#### **VIOLATION OF THE FREEDOM OF INFORMATION ACT: FAILURE TO TIMELY RESPOND AND APPROVE FEE WAIVER**

54. The allegations made in all preceding paragraphs are realleged and incorporated by reference herein.

55. BFC has a statutory right to have APHIS process its FOIA requests in a manner which complies with the FOIA. Plaintiff's rights in this regard are violated

by APHIS' unlawful delay in informing BFC of its decision concerning BFC's request for a fee waiver beyond the twenty-day statutory deadline. 5 U.S.C. §§ 552(a)(6)(A)(i).

56. Based on the nature of Plaintiff's organizational activities, Plaintiff will continue to employ FOIA's provisions in information requests to APHIS in the foreseeable future. These activities will be adversely affected if APHIS is allowed to continue violating FOIA's response deadlines for fee waiver requests.

57. BFC's request for a waiver of all fees associated with the FOIA Request is appropriate and satisfies all elements required for approval of a fee waiver.

58. Unless enjoined and made subject to a declaration of Plaintiff's legal rights by this Court, Defendant will continue to violate the rights of Plaintiff to receive public records under the FOIA.

59. APHIS' failure to make a final determination on BFC's FOIA Request within the statutory timeframe has prejudiced Plaintiff's ability to timely obtain public records.

#### **COUNT IV**

#### **VIOLATION OF THE FREEDOM OF INFORMATION ACT: UNLAWFUL WITHHOLDING OF NON-EXEMPT PUBLIC RECORDS**

60. The allegations made in all preceding paragraphs are realleged and incorporated by reference herein.

61. BFC has a statutory right to have APHIS process its FOIA requests in a

manner which complies with FOIA. Plaintiff's rights in this regard are violated by APHIS' failure to promptly provide public, non-exempt records to BFC in response to the FOIA Request. 5 U.S.C. § 552(a)(3).

62. APHIS is unlawfully withholding public disclosure of information sought by BFC, information to which it is entitled and for which no valid disclosure exemption applies.

63. Based on the nature of BFC's organizational activities, it will undoubtedly continue to employ FOIA's provisions in information requests to APHIS in the foreseeable future.

64. BFC's organizational activities will be adversely affected if APHIS is allowed to continue violating FOIA's disclosure mandates.

65. Unless enjoined and made subject to a declaration of BFC's legal rights by this Court, APHIS will continue to violate the rights of BFC to receive public records under the FOIA.

### **REQUEST FOR RELIEF**

WHEREFORE, BFC prays that this Court:

1. Declare APHIS' failure to disclose the records requested by Plaintiff in the FOIA Request to be unlawful under the FOIA, 5 U.S.C. § 552(a)(3).
2. Order APHIS to promptly provide BFC with the records sought in its FOIA Request.

3. Declare APHIS' failure to make a timely final determination on Plaintiff's FOIA Request to be unlawful under the FOIA, 5 U.S.C. §§ 552(a)(6)(A)(i), (ii).

4. Declare APHIS' failure to make a timely determination on Plaintiff's request for a fee waiver to be unlawful under the FOIA, 5 U.S.C. §§ 552(a)(6)(A)(i), (ii).

5. Declare that BFC's request for a fee waiver is proper and Order APHIS to produce records at no charge to BFC.

6. Declare APHIS' failure to provide BFC with an estimated completion date to be unlawful under the FOIA, 5 U.S.C. § 552(a)(7)(B)(ii).

7. Award BFC its reasonable attorneys' fees and costs pursuant to 5 U.S.C. § 552(a)(4)(E) and 28 U.S.C. § 2412.

8. Grant such other and further relief as the Court may deem just and proper.

Filed this 7th Day of February, 2018.

/s/ Timothy Bechtold



# **ATTACHMENT 1**

**From:** [Darrell Geist](#)  
**To:** [APHIS-FOIA Officer](#)  
**Cc:** [Darrell Geist](#)  
**Subject:** FREEDOM OF INFORMATION ACT REQUEST  
**Date:** Wednesday, October 11, 2017 7:09:30 PM

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## FREEDOM OF INFORMATION ACT REQUEST

October 11, 2017

Tonya Woods, FOIA Director  
Legislative and Public Affairs  
Freedom of Information Act  
4700 River Road, Unit 50  
Riverdale, MD 20737  
Phone: 301-851-4102  
Fax: 301-734 -5941  
[Email: foia.officer@aphis.usda.gov](mailto:foia.officer@aphis.usda.gov)

Dear FOIA Director Tonya Woods, ,

Pursuant to the Freedom of Information Act 5 U.S.C. § 552 *et. seq.*, Buffalo Field Campaign is filing this request for public information and records.

Buffalo Field Campaign is a 501(c)(3) non-profit, public interest, news media and field organization which provides information and news reports to people in all 50 states, to broadcast networks and news media outlets in the United States and abroad, and to various local, regional, and international communities.

In responding to our request, Buffalo Field Campaign requests the agency reduce costs and waste by providing the information and records in electronic PDF or Word format on a web site for downloading or on a CD/DVD that can be mailed to the address below.

Buffalo Field Campaign requests the following information and records on the U.S. Dept. of Agriculture Animal and Plant Health Inspection Service's study Evaluation of GonaCon™, an Immunocontraceptive Vaccine, as a Means of Decreasing Transmission of *Brucella abortus* in Bison in the Greater Yellowstone Area:

1. All publications, studies, reports, memos, and communications (emails, faxes, letters).
2. All animal welfare monitoring, including inspections, reports, evaluations, appointment books, and notes related to injury, abandonment, and death of bison.
3. Bison abortions and births.
4. Removal and disposition of genetic material from bison.
5. Number and status of bison, held for study, incinerated, landfill buried, distributed to food banks, or other activities resulting in removal.

To facilitate our FOIA request, the contact person listed for the study is:

Dr. Donald E. Herriott

Associate Regional Director – Western Region

Veterinary Services

Animal and Plant Health Inspection Service

U.S. Department of Agriculture

2150 Centre Avenue, Bldg B, Mailstop 3E13

Fort Collins, CO 80526-8117

As you know, the Freedom of Information Act provides that if portions of a document are exempt from release, the remainder must be segregated and disclosed. Buffalo Field Campaign expects to receive all non-exempt portions of the documents that we have requested, and ask that you justify any deletions by reference to specific exemptions allowed under the Freedom of Information Act. Buffalo Field Campaign reserves the right to appeal a decision by the agency to withhold any information or records.

Buffalo Field Campaign requests a fee waiver for all search and duplication fees under the Freedom of Information Act regulations 5 U.S.C. § 552(a)(4)(A) and 7 CFR § 1.5. A fee waiver and release of the information and records requested will benefit the people of the United States by fostering public understanding of government activities and encouraging public involvement in important policy and management issues.

The released information and records is for the public's benefit and in the public's interest and will be made available to the public through Buffalo Field Campaign's offices and our website, list-serve and network outlets. Information and records available to Buffalo Field Campaign are used in press conferences and releases, television and radio interviews, regional and national publications, local and national broadcast networks, in public meetings and before legislative bodies, and is shared online through a variety of media that reaches the public nationwide and abroad. All of these activities significantly contribute to public understanding of government operations and activities.

The language of the Freedom of Information Act clearly indicates the U.S. Congress intended fees not to be a barrier to private individuals or public interest organizations seeking access to government information and records. In addition, the legislative history of the Freedom of Information Act fee waiver language indicates the U.S. Congress intended a liberal interpretation of the phrase "primarily benefiting the public." This suggests that all fees are to be waived whenever the release of information contributes to public debate on important public policy and management issues. This standard has been affirmed by the U.S. Court of Appeals for the District of Columbia in *Better Government Association v. Department of State*, 780 F.2d 86 (D.C. Cir. 1986). In *Better Government*, the D.C. Circuit Court found that under the Freedom of Information Act, the U.S. Congress explicitly recognized the need for non-profit organizations to have free access to government documents and those government agencies cannot impair this free access by charging duplication or search for Freedom of Information Act requests. *Id.* at 89.

If I can be of assistance in expediting this Freedom of Information Act request please contact

me at the information below. Thank you for your time and assistance.

Sincerely,

/s/

Darrell Geist, habitat coordinator

Buffalo Field Campaign

PO Box 957

West Yellowstone, MT 59758

(406) 531-9284

[z@wildrockies.org](mailto:z@wildrockies.org)

## **ATTACHMENT 2**

**October 13, 2017**

**Dear Darrell Geist:**

This is an acknowledge receipt of your Freedom of Information Act (FOIA) request dated **October 11, 2017**. Your request was received in the APHIS FOIA Office on **October 12, 2017**, and assigned tracking number # **2018-APHIS-00286-F**. The target response date for your request is **November 09, 2017**. A copy of your request is attached.

We are currently processing your request for information. You may contact Robbie Perry if you have questions concerning your request at **301-851-4105**, or [FOIA.Officer@aphis.usda.gov](mailto:FOIA.Officer@aphis.usda.gov). Please refer to your tracking number in all future communications with us regarding your request.

If you prefer, you can check the status of your request online through the USDA Public Access Link (PAL), at <https://efoia-pal.usda.gov/palMain.aspx>.

Sincerely,

Tonya G Woods  
Director  
Freedom of Information and Privacy Act  
Legislative and Public Affair

Enclosure(s)

## **ATTACHMENT 3**

**From:** Darrell Geist [z@wildrockies.org](mailto:z@wildrockies.org)  
**Subject:** Fwd: APHIS Ack Letter - 2018-APHIS-00286-F  
**Date:** November 30, 2017 at 11:48 AM  
**To:** Daniel Snyder [dan.tebbuttlaw@gmail.com](mailto:dan.tebbuttlaw@gmail.com)  
**Cc:** Darrell Geist [z@wildrockies.org](mailto:z@wildrockies.org)

DG

Begin forwarded message:

**From:** Darrell Geist <[z@wildrockies.org](mailto:z@wildrockies.org)>  
**Subject:** Re: APHIS Ack Letter - 2018-APHIS-00286-F  
**Date:** November 27, 2017 at 7:26:16 PM MST  
**To:** [Shirley.A.Boyd@aphis.usda.gov](mailto:Shirley.A.Boyd@aphis.usda.gov), [FOIA.Officer@aphis.usda.gov](mailto:FOIA.Officer@aphis.usda.gov)  
**Cc:** Darrell Geist <[z@wildrockies.org](mailto:z@wildrockies.org)>

Dear Shirley A. Boyd,

I am following up on my Freedom of Information Act request **2018-APHIS-00286-F**. I checked the status of my request online at the PAL link and it appears it is still in process.

You note that the target response date is November 9, 2017. More than 10 additional business days have transpired and I have not received any records. Additionally I do not have any record of USDA APHIS requesting an extension beyond the 20 business days FOIA permits.

Please let me know at the earliest opportunity when I may expect my FOIA request to be fulfilled.

Darrell Geist habitat coordinator  
Buffalo Field Campaign  
<[z@wildrockies.org](mailto:z@wildrockies.org)>  
(406) 531-9284

October 13, 2017

Dear Darrell Geist:

This is an acknowledge receipt of your Freedom of Information Act (FOIA) request dated **October 11, 2017**. Your request was received in the APHIS FOIA Office on **October 12, 2017**, and assigned tracking number # **2018-APHIS-00286-F**. The target response date for your request is **November 09, 2017**. A copy of your request is attached.

We are currently processing your request for information. You may contact Robbie Perry if you have questions concerning your request at **301-851-4105**, or [FOIA.Officer@aphis.usda.gov](mailto:FOIA.Officer@aphis.usda.gov). Please refer to your tracking number in all future communications with us regarding your request.

If you prefer, you can check the status of your request online through the USDA Public Access Link (PAL), at <https://efoia-pal.usda.gov/palMain.aspx>.

Sincerely,

Tonya G Woods  
Director  
Freedom of Information and Privacy Act  
Legislative and Public Affair

Enclosure(s)

On Oct 13, 2017, at 12:17 PM, [Shirley.A.Boyd@aphis.usda.gov](mailto:Shirley.A.Boyd@aphis.usda.gov) wrote:

<18-00286-F2.pdf><APHIS Ack Letter.docx>



18-00286-  
F2.pdf



APHIS Ack  
Letter.docx



## **ATTACHMENT 4**

**From:** Darrell Geist [z@wildrockies.org](mailto:z@wildrockies.org)  
**Subject:** Fwd: FOIA request 2018-APHIS-00286-F  
**Date:** November 30, 2017 at 4:22 PM  
**To:** Daniel Snyder [Dan@tebbuttlaw.com](mailto:Dan@tebbuttlaw.com)  
**Cc:** Darrell Geist [z@wildrockies.org](mailto:z@wildrockies.org)

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Begin forwarded message:

**From:** Darrell Geist <[z@wildrockies.org](mailto:z@wildrockies.org)>  
**Subject:** FOIA request 2018-APHIS-00286-F  
**Date:** November 30, 2017 at 5:21:06 PM MST  
**To:** [FOIA.Officer@aphis.usda.gov](mailto:FOIA.Officer@aphis.usda.gov), "Henson, Terry A - APHIS" <[Terry.A.Henson@aphis.usda.gov](mailto:Terry.A.Henson@aphis.usda.gov)>  
**Cc:** Darrell Geist <[z@wildrockies.org](mailto:z@wildrockies.org)>

Dear Tonya Woods and Terry Henson,

Pursuant to 5 U.S.C. § 552(a)(7)(B)(ii), I hereby request that APHIS provide an estimated completion date upon which the agency will fulfill my FOIA request (2018-APHIS-00286-F) received on October 12, 2017.

APHIS has failed to provide me records within your determination date (November 9, 2017) and within twenty business days the FOIA requires. APHIS has also not requested any type of extension pursuant to the FOIA's "unusual circumstance" provisions.

I also ask that you provide me with a determination on my request ASAP, and in no event later than Friday, December 8, 2017.

Thank you,

/s/ Darrell Geist  
Darrell Geist, habitat coordinator  
Buffalo Field Campaign"  
<[z@wildrockies.org](mailto:z@wildrockies.org)>  
(406) 531-9284

## **ATTACHMENT 5**

**From:** Darrell Geist [z@wildrockies.org](mailto:z@wildrockies.org)  
**Subject:** Fwd: FOIA request 2018-APHIS-00286-F  
**Date:** February 5, 2018 at 4:05 PM  
**To:** Daniel Snyder [dan@tebbuttlaw.com](mailto:dan@tebbuttlaw.com)  
**Cc:** Darrell Geist [z@wildrockies.org](mailto:z@wildrockies.org)

DG

Begin forwarded message:

**From:** "Henson, Terry A - APHIS" <[Terry.A.Henson@aphis.usda.gov](mailto:Terry.A.Henson@aphis.usda.gov)>  
**Subject:** RE: FOIA request 2018-APHIS-00286-F  
**Date:** December 1, 2017 at 5:57:57 AM MST  
**To:** 'Darrell Geist' <[z@wildrockies.org](mailto:z@wildrockies.org)>  
**Cc:** "Perry, Robbie T - APHIS" <[Robbie.T.Perry@aphis.usda.gov](mailto:Robbie.T.Perry@aphis.usda.gov)>

Hello Mr. Geist,

Your inquiry regarding your FOIA request 2018-APHIS-00286-F has been forwarded to the assigned FOIA Specialist, Mr. Robbie Perry. Mr. Perry will provide you with the status of the processing of your FOIA request. I have copied Mr. Perry on this correspondence, and he can also be reached directly at [Robbie.t.perry@aphis.usda.gov](mailto:Robbie.t.perry@aphis.usda.gov) or 301/851-4105.

Regards!

---

**From:** Darrell Geist [<mailto:z@wildrockies.org>]  
**Sent:** Thursday, November 30, 2017 7:21 PM  
**To:** APHIS-FOIA Officer <[FOIA.Officer@aphis.usda.gov](mailto:FOIA.Officer@aphis.usda.gov)>; Henson, Terry A - APHIS <[Terry.A.Henson@aphis.usda.gov](mailto:Terry.A.Henson@aphis.usda.gov)>  
**Cc:** Darrell Geist <[z@wildrockies.org](mailto:z@wildrockies.org)>  
**Subject:** FOIA request 2018-APHIS-00286-F

Dear Tonya Woods and Terry Henson,

Pursuant to 5 U.S.C. § 552(a)(7)(B)(ii), I hereby request that APHIS provide an estimated completion date upon which the agency will fulfill my FOIA request (2018-APHIS-00286-F) received on October 12, 2017.

APHIS has failed to provide me records within your determination date (November 9, 2017) and within twenty business days the FOIA requires. APHIS has also not requested any type of extension pursuant to the FOIA's "unusual circumstance" provisions.

I also ask that you provide me with a determination on my request ASAP, and in no event later than Friday, December 8, 2017.

Thank you,

/s/ Darrell Geist  
Darrell Geist, habitat coordinator  
Buffalo Field Campaign"  
<[z@wildrockies.org](mailto:z@wildrockies.org)>  
(406) 531-9284

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## **ATTACHMENT 6**

**From:** Darrell Geist z@wildrockies.org  
**Subject:** Fwd: FOIA request 2018-APHIS-00286-F  
**Date:** December 18, 2017 at 12:56 PM  
**To:** Daniel Snyder dan@tebbuttlaw.com  
**Cc:** Darrell Geist z@wildrockies.org

DG

Begin forwarded message:

**From:** Darrell Geist <z@wildrockies.org>  
**Subject:** FOIA request 2018-APHIS-00286-F  
**Date:** December 18, 2017 at 1:39:51 PM MST  
**To:** Robbie.T.perry@aphis.usda.gov  
**Cc:** Darrell Geist <z@wildrockies.org>

December 18, 2017

Dear Mr. Robert Perry,

Pursuant to 5 U.S.C. § 552(a)(7)(B)(ii), I hereby request that APHIS provide an estimated completion date upon which the agency will fulfill my FOIA request (2018-APHIS-00286-F) received on October 12, 2017.

APHIS has failed to provide me records within your determination date (November 9, 2017) and within twenty business days the FOIA requires. APHIS has also not requested any type of extension pursuant to the FOIA's "unusual circumstance" provisions. As of today, the "in process" status of my FOIA request has not changed on USDA's Freedom of Information Act (FOIA) Public Access Website.

I ask that you provide me with a determination on my request ASAP, and in no event later than Friday, December 22, 2017.

Thank you,

/s/ Darrell Geist  
Darrell Geist, habitat coordinator  
Buffalo Field Campaign"  
<z@wildrockies.org>  
(406) 531-9284

Begin forwarded message:

**From:** "Henson, Terry A - APHIS" <Terry.A.Henson@aphis.usda.gov>  
**Subject:** RE: FOIA request 2018-APHIS-00286-F  
**Date:** December 1, 2017 at 5:57:57 AM MST  
**To:** 'Darrell Geist' <z@wildrockies.org>  
**Cc:** "Perry, Robbie T - APHIS" <Robbie.T.Perry@aphis.usda.gov>

Hello Mr. Geist,

Your inquiry regarding your FOIA request 2018-APHIS-00286-F has been forwarded to the assigned FOIA Specialist, Mr. Robbie Perry. Mr. Perry will provide you with the status of the processing of your FOIA request. I have copied Mr. Perry on this correspondence, and he can also be reached directly at [Robbie.t.perry@aphis.usda.gov](mailto:Robbie.t.perry@aphis.usda.gov) or 301/851-4105.

Regards!

---

**From:** Darrell Geist [mailto:[z@wildrockies.org](mailto:z@wildrockies.org)]  
**Sent:** Thursday, November 30, 2017 7:21 PM  
**To:** APHIS-FOIA Officer <[FOIA.Officer@aphis.usda.gov](mailto:FOIA.Officer@aphis.usda.gov)>; Henson, Terry A - APHIS <[Terry.A.Henson@aphis.usda.gov](mailto:Terry.A.Henson@aphis.usda.gov)>  
**Cc:** Darrell Geist <[z@wildrockies.org](mailto:z@wildrockies.org)>  
**Subject:** FOIA request 2018-APHIS-00286-F

Dear Tonya Woods and Terry Henson,

Pursuant to 5 U.S.C. § 552(a)(7)(B)(ii), I hereby request that APHIS provide an estimated completion date upon which the agency will fulfill my FOIA request (2018-APHIS-00286-F) received on October 12, 2017.

APHIS has failed to provide me records within your determination date (November 9, 2017) and within twenty business days the FOIA requires. APHIS has also not requested any type of extension pursuant to the FOIA's "unusual circumstance" provisions.

I also ask that you provide me with a determination on my request ASAP, and in no event later than Friday, December 8, 2017.

Thank you,

/s/ Darrell Geist

Darrell Geist, habitat coordinator  
Buffalo Field Campaign"

<[z@wildrockies.org](mailto:z@wildrockies.org)>

(406) 531-9284

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## **ATTACHMENT 7**

**From:** Darrell Geist [z@wildrockies.org](mailto:z@wildrockies.org)  
**Subject:** Re: FOIA request 2018-APHIS-00286-F  
**Date:** January 2, 2018 at 11:20 AM  
**To:** Daniel Snyder [dan@tebbuttlaw.com](mailto:dan@tebbuttlaw.com)  
**Cc:** Darrell Geist [z@wildrockies.org](mailto:z@wildrockies.org)

Darrell Geist habitat coordinator  
Buffalo Field Campaign  
[z@wildrockies.org](mailto:z@wildrockies.org)  
(406) 531-9284

On Jan 1, 2018, at 5:50 PM, Perry, Robbie T - APHIS <[Robbie.T.Perry@aphis.usda.gov](mailto:Robbie.T.Perry@aphis.usda.gov)> wrote:

Good Evening Mr. Geist:

I am working on a partial release of your FOIA requests this week.

Thank You,

Robbie Perry  
Government Information Specialist  
USDA APHIS LPA FOIA

---

**From:** Darrell Geist [<mailto:z@wildrockies.org>]  
**Sent:** Monday, December 18, 2017 3:40 PM  
**To:** Perry, Robbie T - APHIS <[Robbie.T.Perry@aphis.usda.gov](mailto:Robbie.T.Perry@aphis.usda.gov)>  
**Cc:** Darrell Geist <[z@wildrockies.org](mailto:z@wildrockies.org)>  
**Subject:** FOIA request 2018-APHIS-00286-F

December 18, 2017

Dear Mr. Robert Perry,

Pursuant to 5 U.S.C. § 552(a)(7)(B)(ii), I hereby request that APHIS provide an estimated completion date upon which the agency will fulfill my FOIA request (2018-APHIS-00286-F) received on October 12, 2017.

APHIS has failed to provide me records within your determination date (November 9, 2017) and within twenty business days the FOIA requires. APHIS has also not requested any type of extension pursuant to the FOIA's "unusual circumstance" provisions. As of today, the "in process" status of my FOIA request has not changed on USDA's Freedom of Information Act (FOIA) Public Access Website.

I ask that you provide me with a determination on my request ASAP, and in no event later than Friday, December 22, 2017.

Thank you,

/s/ Darrell Geist  
Darrell Geist, habitat coordinator

Buffalo Field Campaign  
<[z@wildrockies.org](mailto:z@wildrockies.org)>  
(406) 531-9284

Begin forwarded message:

**From:** "Henson, Terry A - APHIS" <[Terry.A.Henson@aphis.usda.gov](mailto:Terry.A.Henson@aphis.usda.gov)>  
**Subject:** RE: FOIA request 2018-APHIS-00286-F  
**Date:** December 1, 2017 at 5:57:57 AM MST  
**To:** 'Darrell Geist' <[z@wildrockies.org](mailto:z@wildrockies.org)>  
**Cc:** "Perry, Robbie T - APHIS" <[Robbie.T.Perry@aphis.usda.gov](mailto:Robbie.T.Perry@aphis.usda.gov)>

Hello Mr. Geist,

Your inquiry regarding your FOIA request 2018-APHIS-00286-F has been forwarded to the assigned FOIA Specialist, Mr. Robbie Perry. Mr. Perry will provide you with the status of the processing of your FOIA request. I have copied Mr. Perry on this correspondence, and he can also be reached directly at [Robbie.t.perry@aphis.usda.gov](mailto:Robbie.t.perry@aphis.usda.gov) or 301/851-4105.

Regards!

---

**From:** Darrell Geist [<mailto:z@wildrockies.org>]  
**Sent:** Thursday, November 30, 2017 7:21 PM  
**To:** APHIS-FOIA Officer <[FOIA.Officer@aphis.usda.gov](mailto:FOIA.Officer@aphis.usda.gov)>; Henson, Terry A - APHIS <[Terry.A.Henson@aphis.usda.gov](mailto:Terry.A.Henson@aphis.usda.gov)>  
**Cc:** Darrell Geist <[z@wildrockies.org](mailto:z@wildrockies.org)>  
**Subject:** FOIA request 2018-APHIS-00286-F

Dear Tonya Woods and Terry Henson,

Pursuant to 5 U.S.C. § 552(a)(7)(B)(ii), I hereby request that APHIS provide an estimated completion date upon which the agency will fulfill my FOIA request (2018-APHIS-00286-F) received on October 12, 2017.

APHIS has failed to provide me records within your determination date (November 9, 2017) and within twenty business days the FOIA requires. APHIS has also not requested any type of extension pursuant to the FOIA's "unusual circumstance" provisions.

I also ask that you provide me with a determination on my request ASAP, and in no event later than Friday, December 8, 2017.

Thank you,

/s/ Darrell Geist  
Darrell Geist, habitat coordinator  
Buffalo Field Campaign”  
<[z@wildrockies.org](mailto:z@wildrockies.org)>  
(406) 531-9284

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## **ATTACHMENT 8**

**From:** Darrell Geist [z@wildrockies.org](mailto:z@wildrockies.org)  
**Subject:** Fwd: FOIA request 2018-APHIS-00286-F  
**Date:** January 16, 2018 at 10:16 AM  
**To:** Daniel Snyder [dan@tebbuttlaw.com](mailto:dan@tebbuttlaw.com)  
**Cc:** Darrell Geist [z@wildrockies.org](mailto:z@wildrockies.org)

---

Begin forwarded message:

**From:** Darrell Geist <[z@wildrockies.org](mailto:z@wildrockies.org)>  
**Subject:** FOIA request 2018-APHIS-00286-F  
**Date:** January 16, 2018 at 11:09:52 AM MST  
**To:** [Robbie.T.Perry@aphis.usda.gov](mailto:Robbie.T.Perry@aphis.usda.gov)  
**Cc:** Darrell Geist <[z@wildrockies.org](mailto:z@wildrockies.org)>

January 16, 2018

Dear Robbie Perry,

It has now been 15 days since I received your January 1, 2018 e-mail. I have not received any other response from APHIS, let alone records responsive to the FOIA request. I have repeatedly requested that APHIS provide me with an estimated completion date for my FOIA request, as authorized under the law. I have similarly requested that APHIS provide me with a final determination on the request, to no avail. No unusual circumstances or other extensions have been invoked by APHIS.

I ask that you promptly reply to this message and provide me with the information I have lawfully requested.

Thank you,

Darrell Geist habitat coordinator  
Buffalo Field Campaign  
<[z@wildrockies.org](mailto:z@wildrockies.org)>  
(406) 531-9284